

## **Remarks**

### **Priority**

The 1-25-2008 office action stated that applicant had not filed a certified copy of application GB-0327067.5. Applicant believes that a certified copy was filed with the PCT application; however the PCT International Receiving Office has confirmed that a certified copy is not presently on file.

Applicant submits herein a certified copy of GB-0327067.5 as required by 35 USC 119(b).

### **Rejections under 35 U.S.C. 103**

The rejections of the 1/25/2008 office action are wholly maintained in the 6/30/2008 office action (final rejection).

The Examiner acknowledges in the 6/30/2008 office action that Applicant's arguments filed in reply to the 1/25/2008 office action have been considered, but found to be unpersuasive.

Applicant respectfully submits that the present claims (1-13) define an invention which is unobvious over Eguchi et al. (US Pat. 4,316,941) in view of Smith US Pat. 3,329,661).

Applicant respectfully submits the 103 rejection fails to establish a *prima facie* case of obviousness against the present claims. Applicant respectfully submits the combination of Eguchi and Smith, as used in the 1/25/08 and 6/30/08 office actions, fail the test for "teaching/suggestion/motivation" to establish prima facie obviousness.

Eguchi teaches a rubber stopper for sealing comprising a substrate which is partially or wholly coated with a fluorine-containing elastomer comprising a graft copolymer having rubber-like elasticity and having chemical linkages of fluorine-containing polymeric segments and organopolysiloxane segments at reactive sites of said segments. While Eguchi teaches a fluoropolymer containing the reaction product of an amino-functional polysiloxane with a fluoropolymer derived from a fluoro monomer having a reactive group capable of reacting with the amino-functional polysiloxane, Eguchi fails to teach the addition of a perfluorinated co-monomer comprising the fluoro-substituted alkyl ester of an olefinically unsaturated carboxylic acid (component B2 in the present claims). The 103 rejection relies on Smith for its teaching of such fluoro-substituted alkyl ester of an olefinically unsaturated carboxylic acid. However, there is no explicit teaching or suggestion in Smith to use its fluoro-substituted alkyl ester in combination with Eguchi's fluoropolymers. Conversely, starting with Eguchi, there is no explicit teaching or suggestion to add Smith's fluoro-substituted alkyl ester to its compositions.

Applicant's respectfully submit that the 103 rejection fails to cite explicit sections in either Eguchi or Smith that suggest such a combination. The reasons for combining the references to support the 103 rejection (as found on page 4 of the 6/30/2008 office action) lack sufficient factual evidence to support a proper assessment of obviousness. In particular, Applicant traverses the following statement in the 6/30/08 office action;

*The compositions taught by Smith et. al. bode well for incorporation into the compositions taught by Eguchi et al. owing to the precedent that such compositions would hold well under such steam-treatment processes.*

Applicant submits that the substrates used in Eguchi differ from those of Smith. Eguchi teaches rubber stoppers (see 9:40-55) whereas Smith teaches fabrics which are fibrous and porous (2:41-57). Applicant further submits that Eguchi's steam-treatment process (see 9:3-13) is not representative of most laundering applications, as emphasized

by Smith. Furthermore, the methods and amounts of the fluoropolymer coatings differ between Eguchi and Smith. Applicant believes that because of these differences, one skilled in the art would not be motivated to combine the teachings of Eguchi and Smith. Applicant further question the assertion that the Smith's copolymers based on fluoro-substituted alkyl esters would hold up well in a steam process, absent any direct evidence of such.

Applicant further traverses the following statements on page 4;

*In addition, because Eguchi et al relies on acrylic based reactive copolymer, it would be logical to employ acrylic based perfluorinated monomers as well , such as those taught by Smith so as to match the reaction chemistry displayed by both the perfluorinated and non-fluorinated functional acrylic monomers. In other words, if both monomers are acrylic based, they would have similar rates of reaction.*

Applicant respectfully submits this reasoning to combine is based on hindsight vs actual teachings of either Eguchi or Smith. Neither Eguchi or Smith discuss reaction rates for preparing acrylic based fluorinated copolymers nor selecting combination of such fluoro monomers based on reaction rates.

Applicant maintains that the 103 rejection fails to account for major differences between the cited references. Eguchi and Smith each attempt to solve two different and unique technical problems. Eguchi teaches rubber stoppers comprising fluoropolymer surface coatings having improved properties to prevent contamination of impurities resulting from additives in the rubber stopper construction, as detailed in columns 1 and 2 of Eguchi under 2. *Description of the Prior Arts*. In contrast, Smith is concerned with improving the durability of fluorocarbon treatments, and in particular to fibrous and porous surfaces (2:39-47). Applicant respectfully submits that the rubber stoppers of Eguchi are neither fibrous or porous. Thus, Applicant believes one skilled in the art, looking to improve the fluoropolymer surface coatings on Eugchi's rubber stoppers, would not look to Smith for providing such a solution, nor read Smith as providing a solution to the technical problems addressed in Eugchi. Thus, Applicant respectfully

submits that because Eugchi and Smith attempt to provide solutions to two completely different technical problems, they therefore lack sufficient commonality to provide a proper combination in view of the *Graham* factors for evaluating obviousness.

The present response is being submitted within the three-month shortened statutory period for response to the outstanding Office Action. Applicant authorizes the USPTO to charge deposit account 04-1520 for any fees that should be necessary to maintain the pendency of the application.

In view of the above, it is respectfully submitted that the claims are in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

**DOW CORNING CORPORATION**

A handwritten signature in black ink, appearing to read 'Alan Zombeck', with a long horizontal flourish extending to the right.

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